

Wetlands Watershed Working Group Meeting

DRAFT LIST OF RECOMMENDATIONS

Revised Per Working Group Comments At 28 March 2000 Meeting

S = Statutory, R = Regulatory, A = Administrative

1.0 *Incorporate watershed concept into wetlands program.*

- 1.1. RIDEM wetlands permitting, enforcement and planning/policy groups should be integrated into the watershed approach. RIDEM should articulate specific aspects of the wetlands program that should employ the watershed approach and how it should be done. (R/A)
- 1.2. The RIDEM wetland application form (and other types of applications?) should be amended to add a space to enter the watershed within which the proposed project occurs. (A)
- 1.3. Wetland alteration data should be maintained by watershed. (A)
- 1.4. RIDEM permit staff could be organized on a watershed basis (MADEP does this already, but their wetlands staff is more in an oversight role than RIDEM's staff which actually processes permits). (A)
- 1.5. RIDEM wetland permit decision making should include watershed stakeholder review and comment. Specifically, RIDEM should put information regarding formal actions of the department on the web (administratively complete open permit applications, permit decisions, notices of violations, restoration orders). The information should be retrievable by town, watershed, plat & lot, and geographic coordinates. (A)
- 1.6. RIDEM should support research concerning wetland – watershed relationships including: (A)
 - 1.6.1. Species level effects of increased pollutant loading,
 - 1.6.2. The natural assimilative capacity of wetlands for pollutants,
 - 1.6.3. Cumulative impacts
 - 1.6.4. Evaluation of current experience / state-of-the-art experience of other states with wetland regulation in context of watershed approach.
 - 1.6.5. Identifying current RI watershed data sources
 - 1.6.6. Evaluating scientific theories, evidence related to “watershed approach”
 - 1.6.7. Determining the What types of problems do we know about which stem from lack of a “watershed approach” in wetland protection/regulation

- 1.6.8. How secondary impacts such as induced growth can be accounted for in a watershed approach
- 1.7. RIDEM should develop guidelines for use by staff and consultants on the application of the watershed approach to the assessment of wetland functions, project impacts, and mitigation. (R/A)
 - 1.7.1. RIDEM should clarify the influence that wetland size, type, and setting have on functional performance, societal benefits, and level of protection warranted.
 - 1.7.2. RIDEM should develop different standards for screening projects (exempt/insignificant/significant category of application review), depending on individual watershed characteristics.
 - 1.7.3. RIDEM should articulate procedures for incorporating cumulative impact assessment into wetland permit decisions.
 - 1.7.4. Evaluation of watersheds at different scales is appropriate for different purposes (i.e. there is no one perfect scale for all types of evaluation, but that one scale may be more appropriate than another for a particular type of evaluation). RIDEM should provide guidelines regarding watershed scales to be used for wetland/project evaluations.
 - 1.7.5. The integration of TMDLs into wetland water quality impact assessment and mitigation (BMPs/performance standards).
 - 1.7.6. Guidelines or standard methods for integrating project water quality assessment modeling into watershed water quality modeling.
 - 1.7.7. Implementation of Phase II Stormwater regulations.
 - 1.7.8. ~~The Watershed Approach being implemented for~~ The two pilot watersheds should begin to test methods for integrating the RIDEM wetlands program into the watershed approach.
 - 1.7.9. RIDEM should promote (provide guidance & incentives) for individual watershed groups to focus on wetlands and develop an action agenda to address needs/problems
 - 1.7.10. The wetland component to the watershed approach should be integrated into land acquisition planning by RIDEM itself and through RIDEM technical assistance and grants to others (a \$50 million bond has been approved for RIDEM open space/conservation land acquisition grants).
 - 1.7.11. RIDEM should develop a plan to deal with watersheds that span jurisdictional boundaries (intrastate/interstate).
- 1.8. Include consideration of wetlands in water quality standards (& decisions) per EPA “Draft Core Essential Elements of Comprehensive State & Tribal Wetlands Program” (R/A):
 - 1.8.1. Establish and assign designated uses to wetlands (e.g. aquatic life use support).
 - 1.8.2. Improve water quality standards where appropriate, to better reflect conditions found in wetlands.
 - 1.8.3. Establish biological assessment methods and biological standards (narrative & numeric) for wetlands.

1.8.4. Incorporate wetlands into anti-degradation policy.

2. *Allow for local input on decisions concerning wetlands issues, especially who determines if a project is significant or insignificant.*

- 2.1. RIDEM should identify ways to incorporate input from citizens and local government in preliminary determinations. Input could be active where DEM notifies groups of preliminary meetings or can be passive by posting information on the DEM homepage. (A)
- 2.2. When soliciting local input, RIDEM should consider stakeholders within the project watershed, not just the municipality. (A)
- 2.3. RIDEM's determination of whether a project is significant or insignificant should consider the context of the project (area, hydrology, functions) within the watershed at different scales. (R/A)
- 2.4. Provide permit & enforcement information to public on a timely basis via the internet (see item 1.5, 2.1 above). (A)

3. *Allow flexibility that permits the elimination of definitional wetlands of limited value.* (Chris, should we mention that the group recommended that we change the word limited from no? I think this changed the emphasis of this section.)

- 3.1. In RIDEM's review of applications and wetland violations, wetland value should be assigned, in part, in consideration of its watershed context (e.g. a wetland may appear small and of little value, but may actually be more significant because it represents a rare type or performs a rare function within the watershed). (R/A)
- 3.2. Cumulative impacts to small wetlands may result in significant wetland losses in a watershed (e.g. vernal pools are often small, and the loss of several small vernal pools might represent a significant loss of amphibian breeding sites within a watershed). See item 5 below)
- 3.3. Level of protection should reflect importance of wetland in context of watershed (see item 4 below).

4. *Regulations are value neutral and apply the same level of protection to all wetlands.*

- 4.1. The level of wetland protection afforded by RIDEM should consider their importance in the context of their watershed (with regard to water - related functions). The context for evaluating certain wetland functions such as wildlife

habitat may include other types of evaluation areas (e.g. contiguous tracts of forest which might span watershed divides).

- 4.2. The level of wetland protection should relate to the type and functions of wetland and its sensitivity to certain land uses / site development activities. Table 1 provides an approach where buffer zone width is tiered by type of wetland (tiered buffer zone approach). Such a table helps to provide/articulate the rationale for wetland permit decisions. It also can provide communities guidance regarding its own resource protection initiatives.

5. *Regulations need to assess cumulative alterations on a wetlands system. (R/A)*

- 5.1. RIDEM wetland policies and review criteria should articulate/address the following:
 - 5.1.1. Cumulative impacts to small wetlands may result in significant wetland losses in a watershed (e.g. vernal).
 - 5.1.2. RIDEM should identify wetland functions and values that are cumulative in nature.
 - 5.1.3. The abundance of a wetland function in a watershed affects the importance of a given wetland with regard to its performance of that function.
 - 5.1.4. It is useful to consider how an individual wetland loss will affect the overall performance of a wetland function in a watershed.
 - 5.1.5. The importance of a given wetland function within a watershed affects the importance (significance) of individual wetlands which perform that function (e.g. in a watershed with public water supplies degraded by excessive nutrient loads, loss of wetlands which provide nutrient removal/transformation may be more significant than similar wetland losses in a watershed without water quality problems).
- 5.2. RIDEM should treat alterations of small wetlands as just as serious an issue as alteration of large wetlands when key functions involved are clearly cumulative in nature (e.g. flood reduction, water quality improvement, amphibian breeding habitat).
- 5.3. RIDEM should investigate the degree to which existing RIDEM wetland regulation exemptions could cause problems due to cumulative impacts (e.g. vista pruning).
- 5.4. Add additional exemptions to the rules only when it is clear that the cumulative impact of the exempted activity over time and space is not likely to be significant to the functions and values of wetlands.

- 5.5. In absence of a protocol for cumulative impact assessment, RIDEM should deal with potential cumulative impacts by promoting minimization of impacts of all projects.
- 5.6. RIDEM should develop an approach (guidelines) for assessment of cumulative impacts (new CRMC Special Area Management Plans for Narrow River and Salt Ponds include consideration of cumulative impacts).
- 5.7. RIDEM should log watershed wetland gains and losses, including area, type, functions/values, characteristics. Alterations outside of biological wetlands should also be tracked, including especially alterations to Perimeter Wetland and River Bank Wetland.

6. *Regulation of adjacent upland areas should be discussed and these areas should be evaluated for [indirect] wetland impacts.*

- 6.1. RIDEM should identify mechanisms to minimize impacts to the physical, chemical and biological character of wetlands caused by alteration of adjacent uplands.
- 6.2. RIDEM should provide improved wetland protection from impacts occurring outside the boundary of regulated areas through enforcement of performance standards at the boundary (e.g. suspended solids loading from construction site runoff might be effectively regulated through RIDEM's RIPDES stormwater permits for construction activity).
- 6.3. RIDEM should develop a means of addressing situations where there is a clear wetland impact resulting from a project occurring outside DEM jurisdiction.
 - 6.3.1. BMPs and performance standards help to address such potential problems (e.g. NPS loading as addressed through RIDEM water quality regulations).
- 6.4. RIDEM should promote/support improved wetland protection through local initiatives **i.e.:**
 - 6.4.1. More stringent ISDS regulations
 - 6.4.2. Watershed protection regulations
 - 6.4.3. Extended buffer zones and setbacks
 - 6.4.4. Expanded BMPs or more stringent BMPs – for example requiring increased removal rates for pollutants in stormwater in watersheds of impaired waterbodies (e.g. Newport water supply watersheds)
 - 6.4.5. Watershed specific BMPs / guidelines
 - 6.4.6. Locality can require applicant to go to RIDEM for wetlands review
 - 6.4.7. Performance standards
 - 6.4.8. Special area management plans

- 6.4.9. Role for RIDOA Statewide Planning regarding State Guide Plans and local Comprehensive Plans. (Chris could you be more specific here. This is a bit vague.)
 - 6.4.10. Role of RIDEM in promoting local wetland protection initiatives (education, funding, model ordinances, etc.)
 - 6.4.11. RIDEM education outreach to communities should incorporate information/guidance on watershed approach
 - 6.4.12. Possible use of local conservation commissions / agents for RIDEM Wetland compliance inspections (follow-up on permits and restorations) – training would be required
 - 6.4.13. Means for local conservation commissions to have more impact on RIDEM wetland decisions
 - 6.4.14. Vernal pool protection: a) have local commissions identify vernal pools, and b) assist municipalities and watershed associations in identifying & implementing mechanisms for avoiding impacts to vernal pools and for protecting significant areas of upland forest around the pools.
- 6.5. RIDEM should develop guidelines for major projects outside of wetland jurisdictional resource areas that have the potential for significant wetland impacts. (A)
- 6.5.1. Special consideration (attention) should be given to any projects proposed outside of wetlands jurisdictional resource areas that have a high probability of adversely affecting the quality or quantity of water usually delivered to a wetland. Examples of qualifying projects should be developed (e.g. moderate to high yield wells, landfill caps/liners, golf courses, creation of large impermeable surfaces).
- 6.6. RIDEM should develop a permit program for major water diversions. (S/R/A)

7. A wetland mitigation policy should be considered.

- 7.1. RIDEM should articulate the purpose, the need and major components for a wetland mitigation policy. ~~and what its major components might be.~~
- 7.2. RIDEM should have a wetland mitigation policy/guidelines beyond that indirectly referenced in the existing regulations.
- 7.3. The term “mitigation” should be broadly interpreted by RIDEM to include mitigation of indirect impacts.
- 7.4. RIDEM should develop guidelines for mitigation/restoration plantings (upland buffer plantings and wetland creation plantings)

- 7.5. Best management practices (& performance standards) should be articulated for different types of projects and project features as they relate to wetland protection. (consider matrix approach: project type/feature by wetland type/function).
- 7.6. If a compensatory mitigation policy were developed by RIDEM, it should consider compensation within the watershed. RIDEM should consider/review Massachusetts procedure for ranking wetland functions in a watershed and identifying and ranking mitigation sites for their mitigation banking program.
- 7.7. RIDEM should strive for consistency with federal policy where appropriate.

8. ***Other:***

- 8.1. CRMC's implementation of the RI Freshwater Wetlands Act should be consistent with any new policies, regulations and procedures implemented as a result of these recommendations.
- 8.2. RIDEM should continue to foster improved interagency coordination amongst federal state and local authorities.